

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding the  
Implementation of the Suspension of Direct  
Access Pursuant to Assembly Bill 1X and  
Decision 01-09-060.

Rulemaking 02-01-011  
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
SCHEDULING FURTHER PROCEEDINGS  
REGARDING THE DA CRS CAP**

This ruling schedules further proceedings as directed in Decision (D.) 02-11-022 to reassess the level of the cap on the Direct Access Cost Responsibility Surcharge (DA CRS).

**Background**

D.02-11-022 implemented measures to impose a DA CRS to prevent cost shifting from DA to bundled customers. To guard against making DA uneconomic, however, an interim cap was imposed on the maximum amount that DA customers pay. Bundled customers fund amounts that exceed the cap on an interim basis, with provision for future reimbursement by DA customers. Although DA CRS revenues recovered up to the cap in the initial years will produce an undercollection from DA customers, that undercollection is expected to reverse gradually as capped revenues eventually begin to exceed costs. The resulting surplus in DA CRS recovery in later years will be applied to offset the shortfall in recovery that occurs in the initial years.

While the Commission, in D.02-11-022, set the cap at 2.7 cents/kWh on an interim basis, it also called for further proceedings concerning the level of the cap. In D.02-11-022, the ALJ was directed to conduct further proceedings to determine whether, or to what extent, the cap should be revised after July 1, 2003 to ensure that the shortfalls in recovery of the DA CRS from DA customers, plus accrued interest charges, can be paid off over a reasonable period of time from future surplus collections.

This ruling addresses the scope of these further proceedings and calls for comments on the scope, process, and schedule for such proceedings.

A procedural schedule shall be set after review of comments.

### **Scope of Inquiry**

The scope of this phase shall address issues relating to the effects on DA CRS cost recovery assuming continued use of the 2.7 cents/kWh cap beyond July 1, 2003, and consider proposals for revised caps which may be necessary to provide for full cost recovery from DA customers over a reasonable period of time.

For purposes of these further showings, parties shall make use of the record on forecasted DA CRS costs and revenues in the proceedings underlying D.02-11-022. In D.02-11-022, the Commission directed that for calendar year 2003, the DA CRS obligation should be determined in a manner consistent with the modeling of the DWR revenue requirement to be performed by DWR modeling consultant, Navigant, Inc. (Navigant). Those modeling runs were to be presented to parties and to the Commission by Navigant pursuant to the directives of D.02-12-045. DWR will shortly be presenting updated Navigant model runs of DA CRS costs incorporating the results of the DWR revenue requirements for 2003. The results of those updated model runs should be

incorporated, as relevant, in parties' calculations of DA CRS costs and revenues for 2003 presented in this phase of the proceeding.

As a general matter, however, this phase of the proceeding is not intended to relitigate the controversies concerning the merits of the Henwood versus Navigant modeling of the DA CRS. Rather, the focus will be on using existing record information to compute how long it is expected to take for shortfalls in DA CRS recovery to be paid off under various cap scenarios. On the other hand, to the extent that certain relevant updated information may have become available since the close of the record in D.02-11-022 to which parties can stipulate, those updates can be incorporated into parties' calculations. For example, updated information may be available regarding the applicable DWR bond charge.

One of the major controversies discussed in D.02-11-022 concerned forecast DA CRS assumptions for the market price of off-system sales of surplus power. D.02-11-022 did not adopt any specific long-term forecast for off-system sales market prices, but stated that "the most reasonable estimate, given the uncertainties involved, favors an off-system sales price closer to 100% than to 50%." For purposes of analyzing DA CRS caps in this phase of the proceeding, parties may present a range of possible market prices applicable to off-system sales of surplus power, indicating the sensitivity of different price levels to DA CRS recovery and payback.

### **Format of Data**

Any analyses of DA CRS costs and revenues to be presented in this phase shall be stated separately for each utility on a year-by-year basis, so that the individual elements for any given year can be identified. A sample spreadsheet format of the relevant data input fields is set forth on the attachment to this

ruling. In the interests of consistency and ease of comparison of positions, parties are to use this standardized spreadsheet format in preparing testimony. The spreadsheet format shall also serve to define the relevant inputs and outputs of a standardized “model” that is (1) made available to all parties, and (2) capable of producing transparent results. If a party believes that the data input fields shown on the attachment should be formulated differently, or should show additional or alternative inputs, they should so indicate in comments at the technical workshop as discussed below. Depending on further comments, the adopted spreadsheet format may be modified for parties’ use in presenting further analysis.

In presenting the impact of alternative proposals, the following cost elements subject to the DA CRS cap should be separately identified: DWR Bond Charge; Pre-2003 DWR power charges; Prospective DWR power charges; Utility Retained Generation (URG) component; and Historic Procurement Charge (HPC) (applicable only to SCE). Parties shall also identify their assumptions regarding the annual volumes and prices of off-system sales of surplus power. In presenting calculations, parties shall provide clear references to the source of record-based data being used for each component. To the extent that a party uses updated data that was not part of the record in D.02-11-022, the party shall provide a reference for that updated data and the justification for using it.

Parties’ calculations shall incorporate the total portfolio approach for achieving bundled customer indifference as adopted in D.02-11-022. The calculations shall specifically identify what assumptions are applied for DA load per year in terms of kWh sales, both for “continuous DA” and “incremental DA,” together with the separate costs and revenues applicable for each of these DA categories.

The data field for “Assumed DA CRS Cap” shall be divided into two columns for the year 2003, one column showing the revenues based on the 2.7 cents/kWh DA CRS cap from January 1 through June 30, 2003, and the second column showing revenues from whatever revised cents/kWh DA CRS capped amounts are proposed or assumed for the balance of the year 2003.

The analysis and calculations of DA CRS revenues and costs shall be presented on a utility-specific basis, taking into account the needs and circumstances of each individual utility and customer base. Parties may propose different DA CRS cap levels for each of the three utilities.

D.02-11-022 also adopted TURN’s recommendation that “any financing of the cap shall be retained with the same customer classes that benefit from the cap.” The model used to analyze parties’ proposals should include calculations that illustrate this provision. Each party should also incorporate this provision in their calculations and testimony.

### **Discovery Issues**

In order to develop an adequate record regarding the appropriate DA CRS cap, parties shall proceed to conclude any necessary discovery, and must not be denied access to any computer models used. If any parties are denied access to computer models, they cannot obtain a clear understanding of how relevant inputs and modeling conventions are employed to produce output results. To the extent that any party does not have necessary access to computer models, parties shall initiate steps to execute appropriate nondisclosure agreements and protective orders promptly. If any party is denied access to relevant data or underlying computer models, the proper recourse is for that party promptly to file a motion to compel discovery under the Commission’s law and motion process and to request expedited disposition. In order for computer modeling

evidence to be given weight by the Commission, it must be properly supported, documented, and explained. Data derivations must be transparent.

### **Technical Workshop**

A technical workshop is hereby scheduled for February 4, 2003, beginning at 9:30 a.m. at the Commission's offices. The workshop will provide an opportunity for parties to discuss computer modeling and other discovery issues pertinent to this phase, with the goal of narrowing areas of dispute as to the methodology for presenting DA CRS cost elements used in analyzing the cap. The workshop will provide an opportunity for parties to discuss and agree upon modifications of the current Navigant spreadsheet format, as well as the summary spreadsheet format in Appendix A of this Ruling. All modeling analyses presented in testimony are to use a single agreed-upon set of input fields and spreadsheet format

The workshop will also provide an opportunity for parties to clarify their understanding of how the "total portfolio" approach is to be modeled. The workshop will be moderated by a representative of the Commission's Energy Division. DWR's modeling consultant, Navigant, should provide subject matter experts at the workshop to discuss the most currently available modeling runs of DWR revenue requirements, and their integration into parties' analysis in this phase of the proceeding, and deadlines for any subsequent delivery of data.

Prior to the workshop, parties are encouraged to engage in informal discussion and exchange of data among themselves to seek to narrow areas of difference and reach consensus on a common data set for analysis of the impacts of alternative DA CRS cap proposals.

## **Policy Considerations**

In addition to presenting analysis and recommendations based upon numerical analysis of DA CRS costs and revenue recovery, parties also shall address policy issues that relate to the criteria that should be considered in evaluating and interpreting the empirical data relating the DA CRS cost recovery under different capping scenarios. These policy issues include the implications of extending the payback period and/or total undercollection as it relates to preserving bundled customer indifference. In this respect the following criteria should also be calculated as a basis for assessing the effects and adequacy of any proposed cap:

1. The maximum level of accrued DA CRS undercollection that will be reached before beginning to reverse direction.
2. The number of years that will transpire before the maximum DA CRS undercollection is reached and begins to reverse.
3. The number of years will transpire before the DA CRS undercollection is fully paid off, including provision for accrued interest.
4. The amount of interest charges that will accrue on a cumulative basis during the period that DA CRS undercollections are being financed.

Another significant factor in analyzing the DA CRS payback period is the appropriate interest rate to reflect the time value of money. As part of their proposals, parties should address what is the appropriate compensation for the cost of money, and based on what measure or proxy the cost of money should be determined and applied. In calculating the effects of any proposed caps, parties should specify their assumptions regarding the cost of money to compensate bundled customers for funding shortfalls in the DA CRS. Parties should present proposals concerning both the interest rate for purposes of forecasting the payback period as well as proposals concerning how the rate for the cost of

money should be determined and what proxy, index, or reference source should be used to ascertain the appropriate cost of money.

Parties should present proposals concerning what considerations are relevant and appropriate in evaluating alternative caps as they relate to the Commission's policy regarding preservation of the DA market option. As stated in D.02-11-022:

“While we are developing a further record on the effects of various capping scenarios on the risk, duration, and timing of payback of any undercollections, we also intend to consider any further evidence that would be relevant concerning the risk of rendering DA contracts uneconomic. We shall direct the ALJ to provide the opportunity for parties to present further evidence on this question as well, so that a balanced assessment can be made concerning the effects of caps on both bundled customer indifference and continuing the economic viability of DA.”

Parties accordingly may address any new evidence as to the risk of making DA uneconomic resulting from an increased cap, and the extent to which such risk translates into the level of cap that may be appropriate. Parties need not, however, merely repeat previous testimony on this issue that is already in the record.

Parties are also free to propose variations as to how a cap could be designed. For example, a cap might be designed to change automatically by a predetermined index at prescribed intervals. Parties may consider whether some sort of trigger mechanism should be used to determine the frequency of changes in the cap.

### **Schedule for the Proceeding**

As noted above, a technical workshop shall be convened on February 4, 2003 for the purpose of discussing pertinent computer modeling



issues and related data requirements in preparation for parties to develop their showings for this phase of the proceeding. Following the workshops, parties will proceed to conclude any additional discovery that is necessary for preparation of testimony on the issue of DA CRS caps. The submission of testimony and convening of evidentiary hearings is hereby scheduled as set forth below for this phase:

Technical Workshop (Beginning at 9:30 a.m.)	February 4
Opening Testimony	February 24
Reply Testimony	March 14
Prehearing Conference (Beginning at 10 a.m.)	March 19
Evidentiary Hearings (Beginning at 9:30 a.m.)	March 24-28
Opening Briefs	April 14
Reply Briefs	April 21

**IT IS RULED** that:

1. This phase of the proceeding covered by this ruling shall address whether, or to what extent, the 2.7 cents/kWh Direct Access Cost Responsibility Surcharge cap should be revised after July 1, 2003, pursuant to Decision 02-11-022.
2. The scope of inquiry for this phase shall incorporate the issues as set forth in the discussion section of this ruling, utilizing the data presentation format as set forth in the attachment hereto.
3. A technical workshop to address computer modeling and other discovery and coordination issues relating to this phase, as discussed above, shall be convened on February 4, 2003, starting at 9:30 a.m. in the Commission Courtroom, State Office Building, 505 Van Ness Avenue; San Francisco, California.
4. The procedural schedule for the submission of testimony, prehearing conference, evidentiary hearings, and briefing as set forth in the discussion section above is hereby adopted. All testimony and other filed pleadings shall be

served by electronic mail. All evidentiary hearings shall be conducted in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

5. To the extent that any party does not have necessary access to computer models, parties shall initiate steps to execute appropriate nondisclosure agreements and protective orders promptly.

6. If any party is denied access to relevant data or underlying computer models, the proper recourse is for that party promptly to file a motion to compel discovery under the Commission's law and motion process, and request expedited disposition.

Dated January 24, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Initiating Further Proceedings Regarding The DA CRS Cap, on all parties of record in this proceeding or their attorneys of record.

Dated January 24, 2003, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

R.02-01-011 TRP/k47

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

## Appendix A

Format for Input and Output Fields to be Used for DA CRS Cap Analysis  
(Presented Separately For Each Utility)

<b><u>DA CRS Input Elements</u></b>	Pre-2003	January 1, 2003 thru June 30, 2003	July 1, 2003 thru December 31, 2003	Annually Thereafter
DWR Bond Charge				
DWR Power Charge				
URG Charge				
HPC (applicable only to SCE)				
TOTAL DA CRS (\$/mWh) for Incremental DA Load				
TOTAL DA CRS (\$/mWh) for Continuous DA Load				
Assumed Interest Rate (%)				
Incremental DA Load (in mWh)				
Continuous DA Load (in mWh)				
Assumed Off-System Sales (Price and Volumes)				
Assumed DA CRS Cap (\$/mWh)				
<b><u>DA CRS Output Elements</u></b>				
Revenues Recovered from Incremental DA Load				
Revenues Recovered from Continuous DA Load				
Total DA CRS Revenues				
Annual Revenue Shortfall (Surplus)				
Cumulative Shortfall (Surplus) - before Interest Accruals				
Assumed Interest Rate Accruals				
Cumulative Revenue Shortfall (Surplus) - after Interest Accruals				